

Message Text

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ORIGIN L-03

INFO OCT-01 EA-10 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 EB-08 INR-07 NSAE-00 FAA-00
INRE-00 NSCE-00 PM-05 SP-02 SS-15 H-01 /054 R

DRAFTED BY L/EB:JBELLO /EB/OA:MHSTYLES:VLV
APPROVED BY EB:JLKATZ
EB/TCA:JWBILLER
EA/J - S.ECTON

-----119134 241521Z /45
O 241500Z JAN 78
FM SECSTATE WASHDC
TO AMEMBASSY TOKYO IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, JA

SUBJECT: CIVAIR - GOJ FAILURE TO APPROVE FTL APPLICATION

REF: TOKYO 936

1. EMBASSY REQUESTED DELIVER FOLLOWING NOTE IN RESPONSE TO MOFA NOTE OF JANUARY 18. PURPOSE OF NOTE IS AGAIN TO PLACE USG LEGAL VIEWS ON RECORD. WE ARE CONSIDERING WHAT FURTHER REPRESENTATIONS DESIGNED TO BREAK DEADLOCK ARE IN ORDER.

QUOTE. (COMPLIMENTARY OPENING) AND WISHES TO PRESENT THE FOLLOWING VIEWS OF THE US GOVERNMENT CONCERNING THE GOVERNMENT OF JAPAN'S FAILURE TO APPROVE THE APPLICATION OF FLYING TIGER AIRLINES TO EXTEND THREE ALL-CARGO FLIGHTS TO SINGAPORE EFFECTIVE JANUARY 9, 1978.

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1. AT THE REQUEST OF THE GOVERNMENT OF JAPAN, THE NEGOTIATIONS SCHEDULED FOR DECEMBER 1977 WERE DEFERRED UNTIL MARCH 1978. ALTHOUGH THE US GOVERNMENT ACCEPTED THE PROPOSAL TO DEFER THESE NEGOTIATIONS, IT DID NOT AGREE, EITHER EXPRESSLY OR IMPLIEDLY, TO THE JAPANESE REQUEST TO EXTEND THE CAPACITY PROVISIONS OF THE 1977 AGREED MINUTES BEYOND DECEMBER 31, 1977. THIS VIEW WAS COMMUNICATED TO JAPANESE

GOVERNMENT REPRESENTATIVES INFORMALLY ON SEVERAL OCCASIONS

DURING THE MONTH OF DECEMBER AND CONFIRMED IN US DOCUMENT

5. IN THAT DOCUMENT, THE US STATED THAT IT WAS NOT PREPARED TO ACCEPT ANY FURTHER DEROGATION OF THE 1959 AGREED MINUTES, BUT IT INDICATED THAT US AIRLINES WOULD NOT INCREASE THEIR TOTAL NUMBER OF FLIGHTS AT ANY TIME PRIOR TO MARCH 31, 1978. THE USG CANNOT THEREFORE REGARD THAT THE CAPACITY PROVISIONS OF THE AGREED MINUTES OF JULY 12, 1977, CONTINUE IN EFFECT, PARTICULARLY IN LIGHT OF THE JAPANESE INTERPRETATION OF THOSE PROVISIONS.

2. AS THE MINISTRY OF FOREIGN AFFAIRS NOTES, FLYING TIGER AIRLINES FILED AN APPLICATION LAST OCTOBER CONCERNING A SCHEDULE CHANGE INVOLVING ANCHORAGE. IN THE OPINION OF THE USG, THE APPLICATION INVOLVED ONLY THE UTILIZATION OF EXISTING CAPACITY, NOT AN INCREASE IN CAPACITY. THE GOVERNMENT OF JAPAN, ON THE OTHER HAND, CLAIMED THAT THE SCHEDULE CHANGE INVOLVED A CAPACITY INCREASE. WHEN THE APPLICATION WAS FINALLY APPROVED, THE JAPANESE SIDE UNILATERALLY STATED THAT IT WOULD NOT APPROVE APPLICATIONS BY US AIRLINES FOR SCHEDULE CHANGES INCLUDING POINTS NEW TO THOSE PARTICULAR AIRLINES. THE US DID NOT ACQUIESCE IN THIS VIEW, EITHER EXPRESSLY OR IMPLIEDLY.

3. THE USG BELIEVES THAT THE GOVERNMENT OF JAPAN'S LIMITED OFFICIAL USE

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FAILURE TO APPROVE THE PENDING FLYING TIGER APPLICATION IS IN VIOLATION OF THE 1959 AGREED MINUTES, WHICH CURRENTLY GOVERN THE CAPACITY OF AIR TRANSPORT SERVICES BETWEEN THE TWO STATES. THE UNILATERAL JAPANESE EXTENSION OF THE 1977 AGREED MINUTES--BY WHICH THE JAPANESE SIDE SEEKS TO CONFER UPON ITSELF THE VERY ADVANTAGES WHICH ARE ITS OBJECTIVE IN NEGOTIATIONS--IS UNREASONABLE.

4. ACCORDINGLY, THE UNITED STATES GOVERNMENT HOPES THAT THE GOVERNMENT OF JAPAN WILL APPROVE THE FLYING TIGER APPLICATION AS SOON AS POSSIBLE IN LIGHT OF THE ABOVE VIEWS. ANY POSTPONEMENT OF SUCH CONSIDERATION WOULD ONLY AGGRAVATE THE PRESENT VIOLATION OF THE 1959 AGREED MINUTES. END QUOTE. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SUPPLEMENTAL AIRLINES, AIR ROUTES
Control Number: n/a
Copy: SINGLE
Draft Date: 24 jan 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE018416
Document Source: CORE
Document Unique ID: 00
Drafter: JBELLO /EB/OA:MHSTYLES:VLV
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780035-0683
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1978/newtext/t19780128/aaaaaxqq.tel
Line Count: 108
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 01e1a1e0-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 TOKYO 936
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3722501
Secure: OPEN
Status: NATIVE
Subject: CIVAIR - GOJ FAILURE TO APPROVE FTL APPLICATION
TAGS: EAIR, JA
To: TOKYO
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/01e1a1e0-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014